

# INFORMATION LETTER

## NATIONAL CANNERS ASSOCIATION

Not for  
Publication

For Members  
Only

No. 1171

Washington, D. C.

February 7, 1948

### Tin Situation to Date

1. On Friday N.C.A. filed a brief with the Senate Banking and Currency Committee opposing further restrictions on the use of tin plate containers for the packing of food for human consumption. The brief requests Congress not to extend the Administration's authority to control the use of or to prescribe the specifications for food containers beyond the termination of the Second War Powers Act on February 29.

2. On January 30, the Association notified the membership by special bulletin that the Department of Commerce had issued Direction 10 to Order M-81 and that the Direction, which will be effective February 29, will not affect the present tin plate specifications permitted for food cans, and will not reinstitute can size specifications as previously proposed. (See story on page 118.)

3. The Senate Committee on Banking and Currency on February 4 heard Hans A. Eggerss, president of the Continental Can Co., testify in opposition to any extension of the provisions of the Second War Powers Act which would extend the Administration's authority to allocate tin. See item on page 118.

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The 1948 Alaska commercial fishery regulations have been issued by the Department of the Interior. Copies of the *Federal Register* containing the new order have been mailed by the National Canners Association to the Association of Pacific Fisheries for distribution to the salmon cannery industry.

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At the Third Annual Meeting of the Section on Food, Drug and Cosmetic Law of the New York State Bar Association, at New York City, on January 22, Food and Drug Commissioner Paul B. Dunbar delivered an important paper, a considerable portion of which dealt with matters bearing directly on the impact of the Food, Drug and Cosmetic Act on packaged foods, including canned foods. With Dr. Dunbar's permission, a portion of his paper is reproduced on pages 114 to 116 of this issue.

## 1948 Vegetable Goals

Calling on growers to plant about the same acreages of vegetables for processing this year as they did in 1947, the U. S. Department of Agriculture this week advised the USDA State Councils that 1,825,850 acres of processing vegetables should be grown in 1948, as compared with 1,886,670 acres last year. The recommended acreages with average yields per acre, USDA explained, will produce about 8 percent less vegetables for processing than in 1947, or about 7 percent less than the 1941-46 wartime average.

Acreage increases were recommended for green and wax beans, lima beans, and cabbage for kraut; the same acreages were suggested for beets, sweet corn, spinach, and tomatoes; while a reduction was urged in the acreages of cucumbers for pickles and green peas.

In announcing the 1948 goals program, the Department said an increase in the suggested acreages for green and wax beans and lima beans is desirable this year, because of the increased volume of these commodities going into freezing. In the case of cabbage for kraut, a larger acreage was recommended because of the unusually small crop in 1947 and the small production of kraut last year, USDA said. The table on page 112 shows the suggested 1948 acreages of the various vegetables, as compared with previous crops, and lists the average prices paid to growers for the various commodities.

### Canned Vegetables Featured in National Magazine

The February issue of *Better Homes and Gardens* features an article by Myrna Johnston, food editor of the publication, entitled "Know Your Canned Vegetables." Amply illustrated with excellent color photo layouts and characterized by good descriptive writing, the article emphasizes the advantages of including presently obtainable canned foods in the daily diet.

It contains complimentary references to canned foods such as "Canned vegetables" (See *Canned Vegetables Featured*, page 118)

### Court Rules in Favor of Fish Processor in Wage-Hour Case

Watchmen, cooks, office employees and maintenance men employed in a fish processing plant were held to be within the Section 13(a) (5) exemption of the Fair Labor Standards Act in a decision handed down recently by the United States District Court for Delaware. In this case the Wage and Hour Administrator

sought to enjoin a menhaden fish processor with a plant at Lowes, Delaware, from violating the maximum hour and minimum wage provisions of the Fair Labor Standards Act. (See INFORMATION LETTER for May 24, 1947, p. 261.) The Administrator charged that the defendant had not paid the required minimum wage and overtime pay to a watchman, a cook, office employees and maintenance men, but the defendant contended that all of these employees were exempt under the fishery exemption, Section 13(a)(5) of the Act. A brief *amicus curiae* was filed by Alaska Salmon Industry, Inc., California Fish Canners Association, Inc., and Monterey Fish Processors Association in which it was pointed out the scope of the 13(a)(5) exemption could be decided only in relation to the operations in the entire fish canning and processing industry.

#### Section 13(a)(5) Applies, Court Holds

The Court pointed out in its opinion that the Government alleged that all of defendant's employees were engaged in the production of goods for interstate commerce, yet contended that some of these employees were not within the Section 13(a)(5) exemption because their work was not directly connected with the listed exempt activities of processing, marketing, storing, and distributing fish or the by-products thereof. If these employees were not engaged in any of these activities, the Court said, they were not engaged in the production of goods for interstate commerce and would not be covered by the Act at all. The Court held that these employees were exempt under the 13(a)(5) exemption and that any activities of these employees not within this exemption would be exempt on the grounds that they did not consti-

tute the production of goods for interstate commerce.

The Court stated that Section 13(a)(5) contains two exemptions—one exemption for the catching, loading, unloading or packing of fish for shipment, and another exemption for the processing, marketing, storing and distributing of fish or fish by-products. The exemption for processing and distributing is not necessarily dependent upon the exemption for catching and unloading, according to the opinion.

Finally, the Court reviewed briefly the operations of the fish industry on the West Coast and in Alaska and pointed out that in passing on the scope of the fishery exemption, these operations must be considered. If Congress intended to exempt cooks, watchmen and maintenance men in the Alaskan salmon industry, the Court said, the same activities in the present case are necessarily exempt. The Court held that in the light of the legislative history of Section 13(a)(5) and the facts of the case, the watchman, the cook, the office employees and the maintenance men in this case were exempt from the wage and hour provisions of the Act.

## Procurement

### CCC to Buy Evaporated Milk

The Department of Agriculture announced that the CCC will consider offers for purchase by CCC of approximately 100,000 cases of export-packed evaporated milk. Weekly offers are now being received by the Dairy Branch not later than January 20. All of the evaporated milk is to be used for relief feeding in Greece. Details of the purchase offer may be obtained from the Dairy Branch, Production and Marketing Administration, Washington 25, D. C.

### N.C.A. International Trade Group Studies Export Rules

Members of N.C.A.'s International Trade Committee met on February 2 with officials of the Office of International Trade, Department of Commerce, to discuss projected export controls and licensing of overseas shipments to be effective March 1. The following explanation of how the new procedure affects canners has been verified by OIT officials:

All commodities will require a validly-dated license for export to Country Group "R," which includes:

Aegean Islands, Albania, Andorra, Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, Eire, Estonia, Finland, France, Germany, Gibraltar, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Gozo, and Cyprus Islands, Monaco, The Netherlands, Norway, Poland and Danzig, Portugal and possessions, Romania, San Marino, Spain and possessions, Sweden, Switzerland, Tangier, Trieste, Turkey, U. S. S. R., U. K. of Great Britain and Northern Ireland, Vatican City, and Yugoslavia.

To obtain licenses for exporting canned foods to these "R" countries, exporters must submit OIT form IT 419, stating the quantity to be exported and the purchase price.

Exports to other countries, however, may be made without license if the commodities are not on the OIT's Positive List. Canned foods, with the exception of canned meats, are not on this list. Applications for license to export canned meat will require submission of form 419.

Exports to Canada, Japan, and U. S. Territories and possessions still will require no license.

## Foreign Trade

### Relief Food Purchases

All purchases of commodities (including foods) with funds appropriated by Congress for interim aid to Europe will be made through U. S. government procurement agencies, primarily the Commodity Credit Corporation, according to a recent announcement of OIT.

### 1948 USDA ACREAGE GUIDES FOR VEGETABLES FOR PROCESSING \*

| Commodity                      | Acreage planted for harvest |           |           |           |           |        | Prices to growers |            |       |             |
|--------------------------------|-----------------------------|-----------|-----------|-----------|-----------|--------|-------------------|------------|-------|-------------|
|                                | 1948                        |           | 1947      |           | 1941-45   |        | 1947              | 5-yr. Avg. |       | 10-yr. Avg. |
|                                | Suggested                   | Prelim.   | Acres     | Acres     | Acres     | Acres  | Prelim.           | 1946       | 1946  | 1946        |
| Asparagus <sup>1</sup> .....   | 73,900                      | 82,040    | 74,950    | .....     | 143.91    | 179.27 | 134.80            | .....      | ..... | .....       |
| Lima beans.....                | 92,720                      | 84,290    | 74,170    | 67,580    | 57,510    | 140.84 | 126.90            | 100.76     | 82.99 | 82.99       |
| Snap beans.....                | 113,170                     | 107,780   | 120,950   | 142,280   | 103,600   | 100.93 | 117.76            | 84.69      | 64.59 | 64.59       |
| Beets.....                     | 11,290                      | 11,290    | 17,240    | 19,230    | 15,490    | 10.58  | 18.58             | 17.90      | 14.84 | 14.84       |
| Cabbage for<br>Sauerkraut..... | 15,470                      | 9,670     | 24,900    | 19,300    | 20,300    | 16.97  | 13.14             | 13.54      | 10.88 | 10.88       |
| Corn, sweet.....               | 538,800                     | 538,800   | 539,980   | 518,040   | 444,280   | 20.67  | 19.85             | 16.60      | 12.90 | 12.90       |
| Cucumbers for<br>Pickles.....  | 105,310                     | 140,410   | 149,450   | 113,700   | 103,820   | 54.17  | 58.33             | 50.17      | 31.67 | 31.67       |
| Peas, green.....               | 408,070                     | 453,410   | 529,370   | 461,820   | 393,480   | 87.30  | 86.13             | 71.81      | 61.14 | 61.14       |
| Spinach.....                   | 24,060                      | 24,060    | 36,020    | 37,050    | 30,750    | 37.22  | 42.57             | 48.27      | 29.57 | 29.57       |
| Tomatoes.....                  | 516,930                     | 516,930   | 602,470   | 574,400   | 502,500   | 28.61  | 30.42             | 23.17      | 17.79 | 17.79       |
| Total <sup>2</sup> .....       | 1,825,850                   | 1,886,670 | 2,100,550 | 1,953,400 | 1,671,730 | .....  | .....             | .....      | ..... | .....       |

<sup>1</sup> Acreage guides not established for 1948. <sup>2</sup> Excludes asparagus for which acreage guides for 1948 were not established. \* See, 1948 Vegetable Goals Announced, page 111.

## Congress

### Allocation Authority

Extension of the President's authority to allocate scarce materials, including tin, was proposed to Congress on January 19 in a bill, S. 2023, introduced by Senator Charles Tobey (N. H.) at the request of Commerce Secretary W. Averell Harriman. The bill would extend allocation powers under the Second War Powers Act until March 31, 1950, except that the Congress, by concurrent resolution, or the President might shorten this period. Such powers are due to terminate on February 29, 1948. The Commerce Department's projected tin conservation program which contemplated can size and plate specification controls is contingent upon the extension of this authority.

### Congress Approves Uniform Buying Bill

The so-called uniform procurement bill, H. R. 1366, which authorizes purchases of services and supplies for the armed forces through a uniform procurement plan, was amended and passed by the Senate on January 26. The House accepted the Senate amendments and passed the bill on February 5, thus clearing the way for Presidential action.

The amendments adopted by the Senate brought the measure up to date with language used in the legislation unifying the armed forces. The House first passed the procurement bill last March 20.

### Price Support Program

Several bills extending the life of the price support programs beyond the end of this year have been introduced in Congress during the past two weeks. A number of these measures would extend the life of the Commodity Credit Corporation and the Steagall amendment through December 31, 1950. Those who have introduced such measures include Representatives Cunningham (Iowa), Curtis (Nebr.), Hope (Kans.), Murray (Tenn.), and Talle (Iowa).

### Sugar Industry Investigation

A resolution creating a select committee of the House to conduct an investigation and study of all phases of the sugar industry was introduced on January 14 by Representative J. Glenn Beall (Md.).

Representative Beall stated a week later that he had introduced the reso-

lution, H. Res. 425, "to find out just how much sugar prices can be reduced since there is evidence that they are too high."

### Long-Range Farm Program

The Senate Committee on Agriculture and Forestry has adopted the report on long-range farm program submitted by the subcommittee, and agreed to report it to the Senate on February 9.

## Containers

### Tin Conservation Program Not to Affect Canned Food Pack

A conservation program estimated to save approximately 2,750 tons of tin during 1948 has been announced by Secretary of Commerce W. Averell Harriman to become effective February 29, provided Congress passes legislation extending Government controls over tin beyond that date, Secretary Harriman said. The action will be taken through Direction 10 to Conservation Order M-81.

The conservation program undertaken to provide tin for the Government's strategic stockpile, was worked out after a series of meetings with can manufacturers and can users extending over a period of several months. It restricts 1948 use of tin in can making by individual manufacturers to no more than was contained in the form of tin plate coating they received during 1947 for making cans. Secretary Harriman said that the Department had decided against earlier proposals to reduce the tin coating on cans for packaging certain food products, as well as against the reinstitution of can size specifications.

A statement of Government policy contained in the Department's order makes it clear that can manufacturers will be expected to observe the following principles in distributing their products:

(1) Make adequate provision for the food pack.

(2) Make equitable distribution among and within various groups of can users, including special consideration for small business and hardship cases, and reasonable provision for newcomers.

H. B. McCoy, Director of the Department's Office of Materials Distribution, pointed out that the conservation measures are not intended to affect the volume of cans for food

processing or to impose an undue burden on any industry now using tin plate for packaging its products. Where restrictions on the use of tin cans become effective, substitute packaging materials are available, he said.

In addition to the overall restrictions on the use of tin by can manufacturers, limits are placed on the amounts of tin they may use in making cans for certain specified products. These products include cans for beer, animal foods, coffee, motor lubricating oils, and pigmented oil paints.

Mr. Harriman called attention to the fact that a saving of some 200 tons of tin already has been accomplished by a reduction in second quarter tin plate export quotas. Also, tin mill products producers are being asked to intensify their efforts to see that export buyers are shipped tin plate with the minimum tin coating required for the particular end-use, and present rigid controls over other uses of tin will be continued, Mr. Harriman said.

### Eggerss Tells Senate Group Tin Controls Are Not Needed

Hans A. Eggerss, president of Continental Can Co., testified before the Senate Committee on Banking and Currency on February 4 in opposition to provisions of S. 2023 (extension of Second War Powers Act) which would extend the Government's authority to allocate tin.

He asserted that the chief reason given for the retention of tin controls is the alleged danger of loss of perishable foods due to the lack of cans. "There is no such danger," Mr. Eggerss said. "The can manufacturers have always taken care of the perishable food requirements, and they will do so now."

Mr. Eggerss stated that technological improvements, principally the electrolytic process, have resulted in huge savings of tin, and that if it were necessary to exercise control over tin usage, voluntary industry-wide agreements authorized by the Anti-Inflation Act of 1947 might be undertaken.

Mr. Eggerss pointed out that "the new restrictions recently announced by the Secretary of Commerce are designed to be entirely at the expense of the can making industry, leaving other large tin users, who used over 70 percent of the 1947 United States consumption, unaffected by the change."

## Canned Food Standards

### ADMINISTRATIVE PROGRESS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

By Dr. Paul B. Dunbar,  
U. S. Food and Drug  
Commissioner

One thing that has given us cause for real concern has been the frequency of manufacturing errors resulting in the distribution of dangerous products, principally drugs. These occurrences seem to be on the increase, or perhaps we hear of them more often because the public, the medical profession, and the manufacturers themselves have learned that the Food and Drug Administration is the place to report alarming reactions. It is the fixed policy of the Food and Drug Administration to make a most searching investigation of every illness attributed to foods, to drugs, or to cosmetics. If a product subject to the Federal statute is found responsible, proper steps are taken to apprehend the offending product. If the article is not subject to the Federal statute but is within State or local control, the facts are reported to the proper authorities for appropriate action.

It may be of interest to catalog briefly some of the more recent occurrences illustrating negligent factory controls. In one instance investigations following reports of atropine poisoning disclosed as much as 11 times the amount of atropine declared on the label in certain medicinal tablets. Although the manufacturer had knowledge of the adverse symptoms, he took no steps to recall the material until after the Food and Drug Administration learned of the matter, began an investigation, and imposed pressure on him to round up the offending material. A similar situation occurred in the case of a drug which contained six times the labeled amount of phenobarbital. In another instance the manufacturer somewhat belatedly notified the Food and Drug Administration after complaints had brought the compounding error to his attention. The error consisted in incorporating six pounds of a potent drug in a formula which actually called for only six ounces of the ingredient.

#### FDA Constantly Looks for Errors

An estrogen in oil packaged in ampuls for injection was labeled with a vitamin B complex label which stated that the solution was for intramuscular or intravenous injection. This error was uncovered by a Food and Drug inspector during a routine factory in-

Food and Drug Commissioner Paul B. Dunbar delivered an important paper at the Third Annual Meeting of the Section on Food, Drug and Cosmetic Law of the New York State Bar Association, at New York City, on January 22. A considerable portion of the paper dealt with matters bearing directly on the impact of the Food, Drug and Cosmetic Act on packaged foods, including canned foods. The paper presents the Commissioner's views on enforcement problems and merits a careful reading by members. With Dr. Dunbar's permission, a portion of his paper is reproduced here-with.

spection. The firm had knowledge of the situation but had made no effort to warn physicians of the danger. In another instance bottles of tablets containing 10 milligrams of a potent drug were erroneously labeled 5 milligrams. In this instance the manufacturer instantly notified the Administration when it discovered the error and gave every possible assistance in rounding up the offending material. The same attitude was adopted by another firm which only recently discovered that peppermint leaves were seriously contaminated with toxic stramonium leaves.

I am glad to pay tribute to the frank and constructive attitude of those firms which, when such an error is discovered, recognize its danger and report the facts immediately. In such instances we can work together, combining the facilities of the Food and Drug Administration and its co-operating State and local officials with those of the manufacturer to insure prompt withdrawal of all the objectionable material from the channels of commerce where it may do untold damage if it is not apprehended.

We come now to a subject which may not at first glance appear to belong in a discussion of administrative practice; yet it seems to me that sound administration connotes the promotion of harmonious relations between the regulated and the regulator if this is humanly possible of attainment.

A few spokesmen representing what I am sure are minorities in industry

groups and occasional individual members of such groups have at times given voice to strongly critical comments directed against the enforcement procedure adopted by the Food and Drug Administration. These comments cover a wide range—they are directed against the attitudes and the alleged demands of inspectors, against their criticisms of factory procedures, or their failure to criticize such procedures, against their asking questions of plant personnel other than the manager, against their addressing queries to local managers rather than to the headquarters of the firm.

#### Complaints Made on Seizures

Complaints are made that the Administration is expecting an impossible degree of sanitary care, that if it must direct seizures against unfit products it should carefully segregate the objectionable part of the shipment and seize that only, that legal actions by way of seizure or prosecution should not be directed against products or against the manufacturers without previous warning, and that the Food and Drug Administration ought to understand that "our firm" has the highest and most ethical motives and must not be judged by the same standards that apply to our competitor who isn't to be trusted and who ought to be prosecuted to the full extent of the law.

It is the privilege and the duty of the American citizen to criticize his government. No penalty will accrue if he abuses the government, provided he does it with words and not with arms or seditious acts. No government officer should resent just criticism and no government officer should be so rash as to assert that his acts never deserve criticism.

Constructive criticism should be welcomed by any organization in government, but manifestly criticism is not constructive if it is vague and general in tone.

The Food and Drug Administration is made up of human beings with the varying traits and talents that are common to the race. Perhaps a certain proportion does have a tendency to throw its weight around and to manifest an arbitrary attitude in dealing with the individual. I can only say that our inspection and laboratory forces are most carefully selected under Civil Service regulations. They are recruited from the ranks of college graduates in science; they are subjected to the most careful training we are capable of giving, including a probationary period of one year, before permanent appointment. It is our purpose to deal forthrightly with any member of our force who is shown to be guilty of improper conduct in the pursuit of his assignments.

It is entirely possible to carry out our duties in an impersonal fashion,

and there is no place in our program for favoring friends or for putting pressure on those who do not like us. The facts and the facts only are what interest us in determining whether legal action shall be instituted.

I have heard it stated that a firm has been prosecuted or suffered seizure because some member of the firm had antagonized an inspector. Inspectors do not determine whether action shall be taken. They report the facts as they see them. Their reports are subject to verification by laboratory analysis or by other means. Final decision as to the action to be taken is made in the Washington office after review of all the available evidence. The article by Mr. McKay McKinnon which appeared in the September, 1947, number of the *Food Drug Cosmetic Law Quarterly* will give some enlightening information about the duties and responsibilities of the Food and Drug inspectors.

Let me add a quotation or two from the Food and Drug Administration's Inspectors' Manual which is the bible of the Food and Drug inspector. Under the caption "Introduction at the Plant" the Manual states:

"Approach the person in charge of the plant in a dignified, authoritative, cordial manner as a responsible official representative of the Food and Drug Administration. Identify yourself by name, title, and organization, and present your credentials. Explain the purpose of your visit, i.e., inspection of the plant, raw materials, manufacturing processes, labels and labelings, finished products, distribution of products, and possibly the collection of samples."

#### **"Requirements of the Law"**

Under the heading "Discussion of Requirements of the Law" the inspector is directed not to endeavor to comment on labeling but where a request for such comment is made to suggest that while the law confers no authority for approval of labels upon the Administration, it is its invariable policy to criticize or comment on them whenever manufacturers submit a full statement of composition, together with the labels for comment. He is instructed to point out that consideration by the Washington office is necessary in order to guarantee consistency in the comments on labels received from many sections of the United States.

Under the heading "Adulteration," however, this statement is made: "A different course in general should be adopted in dealing with possible adulterations, particularly with respect to those types of adulteration resulting from the use of unfit material or from the preparation of articles under insanitary conditions. Assuming that the inspector has had adequate training and can accurately appraise the product, if he has ob-

served the packing of an article of doubtful wholesomeness, he should state frankly to some responsible member of the firm, whether a question has been addressed to him or not, that the product in his opinion may violate the law. If his statement provokes rejoinder by the packer refuting the assertion of the inspector, the latter should not engage in any argument at that time but should point out that he simply wishes to call the management's attention to a practice which in the opinion of the inspector may be illegal. In the inspection of establishments operating under insanitary conditions, the inspector at the completion of the inspection should detail to the manufacturer the various objectionable features which his inspection has disclosed."

#### **Invite More Frequent Visits**

Let me say that we receive many communications from manufacturers thanking us for the helpful character of our inspectors' suggestions and actually inviting more frequent visits.

Under the caption "Use of Inspector's Authority" this statement is made: "The inspector's identification card deals with authority. The Administration is proud of the fact that its inspectors depend upon diplomacy, tact, and persuasiveness to acquire evidence, rather than upon strong-arm methods. Sometimes complaints are received alleging that inspectors have departed from this tradition. Many of these complaints are unjustified, but in some instances the purposes of the law could have been better served if more patience had been shown, and by more diplomatic handling of the situations involved."

"Refusal to permit inspectors to copy interstate records and to enter and inspect food, drug, device, or cosmetic factories is a criminal offense. If prosecutions are brought for refusal, the inspector must show that his conduct in connection with the refusal was reasonable and fair, and that he exercised every reasonable precaution to avoid refusal. In no instance can resort to threats of prosecution reflect credit upon an inspector when he is met with a refusal. There is no objection to a courteous discussion of the authority to inspect if it is questioned or denied. This discussion should be couched on a plane of helpfulness to the person by acquainting him with his obligation under the law."

These are our broad instructions. It is our purpose to have them observed. We have under normal conditions a force of approximately 230 inspectors. During the war many of our experienced men entered the military service. Most of them, I am happy to say, have returned. During the period of hostilities, however, their places were taken by temporary war-service appointees, for whom the speci-

fications for educational qualifications were relaxed somewhat by the Civil Service Commission. They were hastily trained, but the above principles were drilled into them. I expected more complaints about their conduct than were actually received. Considering the size of our force, complaints have been surprisingly few, and note this—we find it very difficult indeed when complaints are received to obtain really specific information. As I have said, corrective action cannot be based on generalized complaints or on a general feeling of annoyance because a manufacturer resents the restrictions imposed on him by a law of the land.

These resentments, let me repeat, are confined to small but sometimes very vocal segments of the industry. They manifest themselves occasionally in efforts at amendment to curtail or modify legal requirements when the courts have supported the Food and Drug Administration's concept of the law. We have no right to complain about the legislative approach. That and the determination of differences of opinion in the courts are the time-honored American procedures. We have adopted the same tactic in our recommendation for amendment embodied in H. R. 4071. We may be excused, however, if we believe that in this endeavor we are on the side of the public and the sincere manufacturer and will receive the support of the Congress.

#### **FDA Wants to Be Fair**

If the Food and Drug Administration is guilty of unfairness at any time in its regulatory operations, it should be condemned. Certainly an expression of administrative policy should precede the institution of a regulatory campaign when there is room for a reasonable doubt as to the legality of a practice. For example, mineral oil was at one time considered a proper ingredient for so-called non-fattening salad dressings, provided the labels adequately revealed the character of the article. Accumulated medical evidence, however, satisfied us that mineral oil in food is in fact definitely harmful. While the Food, Drug, and Cosmetic Act does not require a notice to the industry, it was our belief that fairness called for such a notice before the institution of formal legal actions. Such notices were issued through the medium of our trade correspondence announcements.

It is inconceivable, however, that an administrative construction should be read into the Act which would call for prior notice before the institution of legal action against such patent violations as the operation of a filthy establishment or the incorporation of filthy or decomposed substances into our food supply, or the maintenance of such careless factory controls as to

### Reprints of Standards and Sanitation Papers

The December, 1947, issue of the *Food Drug Cosmetic Law Quarterly* carried two papers dealing with matters of interest to canners. One was on "The Formulation of Mandatory Food Standards," by H. Thomas Austern of Association Counsel, and is the article referred to in Dr. Dunbar's address, partially reproduced on pages 114 to 116 of this issue; the other, by J. Russell Esty and E. J. Cameron of the Association Research Staff, is on "The Sanitation Program of the National Canners Association." Reprints of both of these papers were mailed to members on January 29.

result in the marketing of dangerously compounded drugs. It is axiomatic that any firm engaging in the manufacture of foods, drugs, or cosmetics has an obligation to the consuming public to engage in those types of good housekeeping which will preclude such offenses. The bulk of the industries recognize this, and I am sure that they do not subscribe to the theory that every dog is entitled to one bite.

#### Most Industries Are Honest

After 40 years of experience in the enforcement of the present law and its predecessor, I still have a deep belief in the innate honesty of the vast majority of the industries subject to regulation under our statute. I am not cynical in any sense of the word. I regret but I am not too much disturbed when the occasional manufacturer who is unable to prevail in a court contest seeks to lighten his burden by pressing for an emasculating amendment. I have a profound conviction that there are very few instances of differences of opinion on procedure where the interstate manufacturer and the Food and Drug Administration cannot sit down and discuss calmly and without undue heat the pros and cons of a particular question. While agreement cannot always be attained, there is no reason why mutual respect for the opinions of both parties cannot be maintained. Where differences are irreconcilable, the Act provides for a settlement of the issue before the proper judicial tribunal.

A similar comment can be made about the regulation-making functions of the Administration. The December, 1947, number of the *Food Drug Cosmetic Law Quarterly* contains an extremely important paper by Mr. H.

Thomas Austern on "The Formulation of Mandatory Food Standards." Mr. Austern has presented not only a painstaking and good-humored, but an exceedingly constructive and thought-provoking study. I have read the paper studiously and consider it required reading by all of us who are engaged in standards-making activities. I should like to quote with sincere approval Mr. Austern's concluding paragraph, which says:

"It may be a strange observation for a lawyer to urge that neither group should approach the problem as litigants. Government officials are not here dealing with malfeasors whose practices endanger the public health. They are not policing or prosecuting, but carrying out delegated legislative functions. In doing so they are dealing with economic issues of great dif-

ficulty and of vital impact on those they affect. On its part, industry must understand that it is not being prosecuted by a regulatory agency but instead is being afforded a splendid opportunity to participate in the program which Congress has ordained."

### Standards for Sweet Peppers

U. S. standards for grades for sweet peppers for processing have been proposed by the U. S. Department of Agriculture. Canners interested in obtaining copies of the proposed grades should communicate with Fruit and Vegetable Branch, U. S. Department of Agriculture, Washington 25, D. C.

## Statistics

### Canned Fruit and Vegetable Stocks and Shipments

The following tables, which were compiled from recent reports issued by the N.C.A.'s Division of Statistics, compare cannery stocks and shipments of canned corn, peas, tomato juice, asparagus, apricots, peaches, pears, and sweet cherries made during the 1946-47 and 1947-48 seasons. The complete reports on these canned foods have been mailed by the Association to all canners packing these items.

Figures used in the compilation of fruit stocks for the States of California, Washington and Oregon were obtained from the Canners League of California and the Northwest Canners Association. Also, the figures shown for stocks of canned fruits on January 1, 1947, were obtained from the U. S. Bureau of the Census. In addition, the Canners League of California supplied the figures on California stocks of canned tomato juice and canned asparagus.

#### Canned Corn Stocks and Shipments

|                                  | 1946-47             | 1947-48    |
|----------------------------------|---------------------|------------|
|                                  | (Cases—basis 24/6#) |            |
| Canner stocks, Jan. 1....        | 7,029,000           | 8,030,000  |
| Shipments during Dec....         | 3,011,000           | 1,961,000  |
| Shipments, Aug. 1 to Jan. 1..... | 21,852,000          | 18,325,000 |

#### Canned Peas Stocks and Shipments

|                                  | 1946-47             | 1947-48    |
|----------------------------------|---------------------|------------|
|                                  | (Cases—basis 24/6#) |            |
| Canner stocks, Jan. 1....        | 9,950,000           | 17,529,000 |
| Shipments during Dec....         | 1,306,000           | 1,214,000  |
| Shipments, June 1 to Jan. 1..... | 31,006,000          | 20,266,000 |

#### Canned Asparagus Stocks and Shipments (Sold and Unsold)

|                                 | 1946-47      | 1947-48      |
|---------------------------------|--------------|--------------|
|                                 | Actual cases | Actual cases |
| Mar. 1 carryover.....           | 150,000      | 224,775      |
| Pack.....                       | 4,442,632    | 3,916,356    |
| Total supply.....               | 4,592,632    | 4,141,131    |
| January 1 stocks.....           | 413,478      | 736,778      |
| Shipments Oct. 1 to Jan. 1..... | 686,522      | 914,974      |
| Shipments Mar. 1 to Jan. 1..... | 4,179,154    | 3,404,353    |

\*1946-47 stocks estimated from Department of Commerce reports of civilian stocks.

#### Canned Tomato Juice Stocks and Shipments

|                                 | 1946-47             | 1947-48    |
|---------------------------------|---------------------|------------|
|                                 | (Cases—basis 24/6#) |            |
| July 1 stocks.....              | 600,000             | 5,778,000  |
| Pack.....                       | 34,900,000          | 19,506,000 |
| Supply.....                     | 38,500,000          | 25,284,000 |
| Stocks, Jan. 1.....             | 11,503,000          | 14,429,000 |
| Shipments during Dec....        | 1,997,000           | 1,422,000  |
| Shipments July 1 to Jan. 1..... | 23,997,000          | 10,855,000 |

#### Canned Apricot Stocks and Shipments (Shown in actual cases)

|                   | Stocks       | Shipments    |                      |
|-------------------|--------------|--------------|----------------------|
|                   | during       | December,    |                      |
|                   | Dec. 1, 1947 | Jan. 1, 1948 | 1947                 |
| Utah.....         | 65,116       | 61,273       | 3,843                |
| Wash.-Oregon..... | 56,421       | 75,911       | -19,490 <sup>1</sup> |
| California.....   | 1,443,800    | 1,293,594    | 150,206              |
| Total U. S. ....  | 1,565,337    | 1,430,778    | 134,559              |

<sup>1</sup>Larger stocks reported on January 1 than on December 1.

#### Canned Sweet Cherry Stocks and Shipments (Shown in actual cases)

|                   | Stocks       | Shipments    |                   |
|-------------------|--------------|--------------|-------------------|
|                   | during       | December,    |                   |
|                   | Dec. 1, 1947 | Jan. 1, 1948 | 1947              |
| Wash.-Oregon..... | 89,686       | 78,329       | 11,357            |
| California.....   | 13,355       | 13,574       | -219 <sup>1</sup> |
| Other States..... | 17,938       | 16,491       | 1,447             |
| Total U. S. ....  | 120,979      | 108,304      | 12,385            |

<sup>1</sup>Larger stocks reported on January 1 than on December 1.

**Canned Peach Stocks and Shipments  
(Shown in actual cases)**

|                              | Stocks    | Shipments | during    |
|------------------------------|-----------|-----------|-----------|
|                              | Dec. 1,   | Jan. 1,   | December, |
|                              | 1947      | 1948      | 1947      |
| Michigan.....                | 347,626   | 333,570   | 14,056    |
| Southeast <sup>1</sup> ..... | 136,872   | 136,480   | 383       |
| Wash.-Oregon..               | 509,284   | 470,186   | 39,098    |
| California:                  |           |           |           |
| Cling.....                   | 5,377,681 | 4,649,326 | 728,355   |
| Free.....                    | 590,870   | 543,899   | 46,981    |
| Other States....             | 81,205    | 70,168    | 11,037    |
| Total U. S. ....             | 7,043,558 | 6,203,628 | 839,910   |

<sup>1</sup> Georgia, South Carolina, North Carolina, Virginia, and West Virginia.

**Canned Pear Stocks and Shipments  
(Shown in actual cases)**

|                  | Stocks    | Shipments | during    |
|------------------|-----------|-----------|-----------|
|                  | Dec. 1,   | Jan. 1,   | December, |
|                  | 1947      | 1948      | 1947      |
| Wash.-Oregon ..  | 1,960,948 | 1,673,445 | 287,503   |
| California.....  | 579,906   | 572,320   | 7,586     |
| Other States.... | 165,755   | 184,195   | -18,440   |
| Total U. S. .... | 2,706,609 | 2,429,900 | 276,649   |

<sup>1</sup> Larger stocks reported on January 1 than on December 1.

**Anchovies and Mackerel Pack**

Figures released by the California Sardine Products Institute this week, report that 33,702 cases of 1-lb. ovals (9,534 cases), 8-oz. 48's (23,754 cases), and ½-lb 100's (414 cases) of anchovies were packed in California during December.

The Institute also reported that during December, 809,030 cases of 1-lb. talis (423,384 cases), ½-lb. 48's (1,732 cases), ½-lb 96's (4,123 cases), and miscellaneous sizes (26,721 cases) of canned mackerel were packed.

**Social and Economic Data Summarized for Each County**

The Department of Commerce has prepared a *County Data Book* supplementing the *Statistical Abstract*. This book summarizes significant social and economic data for each county in the country and for each of the 138 metropolitan areas. Among the subjects covered are population, labor force, housing, agriculture, industry, and retail trade, and other economic data. Although most of the 91 items included are from the 1940 Census, a number of more recent items are also given.

Copies of the *County Data Book* may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., or from any Department of Commerce Field Service Office for \$2.75 per copy.

**Wholesale Distributor Stocks of Canned Foods Reported**

Wholesale distributors' stocks, including those in warehouses of retail food chains, of 14 canned food commodities totaled 53 million cases on January 1, 1948, a decrease of 2 percent from the 54 million cases on hand as of December 1, 1947, but 2 percent more than the 52 million cases on November 1, the U. S. Department of Commerce said this week. January 1 stocks totaling 53 million cases for the 14 items were 10.5 million cases less than wholesale distributors had on hand as of January 1, 1947.

January 1 stocks of four vegetables (corn, peas, tomatoes, and green and wax beans) totaled 30 million cases, off one million cases from December 1 of 1947, and off 6 million from January 1 of last year. Compared with January 1 of last year, pea stocks were off by 3.8 million cases, or 28 percent, and beans were off by 2.7

million cases, or 42 percent. Tomato stocks were up 1.1 million cases over a year ago, while corn stocks were down 624,000 cases.

January 1 stocks of apricots, peaches, pears, pineapple, and mixed fruits totaled 18 million cases, or two million more than a year ago.

Comparing January 1 of 1948 with the same date of last year, stocks of tomato juice were off 4 million cases; grapefruit juice, off 1.4 million; orange juice, off 0.8 million; and blended citrus juice stocks were down 0.6 million cases. Stocks of pineapple juice, however, increased from 511 thousand to 658 thousand cases.

The following tables contain data on wholesale distributor stocks and the combined wholesale and packer stocks and shipments for nine canned food commodities for which packers' information was available.

Table 1. Fourteen Canned Food Commodities

STOCKS OF WHOLESALE DISTRIBUTORS (INCLUDING WAREHOUSES OF RETAIL FOOD CHAINS)

| Commodity                       | Jan. 1,           | Dec. 1,           | Nov. 1,     | Jan. 1,     | Average     |
|---------------------------------|-------------------|-------------------|-------------|-------------|-------------|
|                                 | 1948 <sup>a</sup> | 1947 <sup>b</sup> | 1947        | 1947        | 1943-1945   |
| FOUR VEGETABLES:                | 1,000 cases       | 1,000 cases       | 1,000 cases | 1,000 cases | 1,000 cases |
| Beans, green and wax.....       | 30,420            | 31,277            | 28,925      | 36,439      | 25,445      |
| Corn.....                       | 3,771             | 4,010             | 3,863       | 6,493       | 5,216       |
| Peas.....                       | 9,323             | 8,839             | 7,003       | 9,947       | 6,873       |
| Tomatoes.....                   | 9,807             | 10,357            | 10,424      | 13,500      | 6,010       |
|                                 | 7,519             | 8,071             | 7,635       | 6,409       | 7,346       |
| FIVE FRUITS:                    | 13,278            | 13,388            | 13,034      | 11,070      | 5,196       |
| Apricots.....                   | 1,766             | 1,829             | 1,842       | 2,603       | 747         |
| Mixed fruits <sup>c</sup> ..... | 2,429             | 2,546             | 2,383       | 1,357       | 946         |
| Peaches.....                    | 6,701             | 6,537             | 6,382       | 5,434       | 2,074       |
| Pears.....                      | 1,478             | 1,370             | 1,166       | 822         | 429         |
| Pineapple.....                  | 904               | 1,106             | 1,261       | 854         | 930         |
| FIVE JUICES:                    | 9,407             | 9,671             | 9,974       | 16,105      | 8,741       |
| Tomato.....                     | 4,858             | 5,203             | 5,109       | 8,917       | 5,103       |
| Grapefruit.....                 | 1,791             | 1,846             | 2,106       | 3,144       | 3,223       |
| Orange.....                     | 1,398             | 1,205             | 1,231       | 2,242       | 941         |
| Blended citrus.....             | 702               | 644               | 707         | 1,291       |             |
| Pineapple.....                  | 658               | 773               | 821         | 511         | 474         |
| Total.....                      | 53,105            | 54,336            | 51,933      | 63,614      | 39,312      |

<sup>a</sup> Preliminary. <sup>b</sup> Revised. <sup>c</sup> Includes fruit cocktail, fruits for salad, mixed fruits (except citrus).

<sup>c</sup> Includes vegetable juice combinations containing at least 70 percent tomato juice.

Table 2. Nine Canned Food Commodities

COMBINED WHOLESALE AND PACKER STOCKS AND SHIPMENTS

| Commodity            | Wholesale and packer stocks * |        |            |        | Wholesale and packer combined shipments |       |
|----------------------|-------------------------------|--------|------------|--------|-----------------------------------------|-------|
|                      | January 1                     |        | December 1 |        | December                                |       |
|                      | 1948                          | 1947   | 1947       | 1946   | 1947                                    | 1946  |
| Corn.....            | 17,855                        | 18,984 | 19,505     | 20,462 | 1,610                                   | 1,478 |
| Peas.....            | 27,758                        | 28,576 | 29,572     | 24,922 | 1,784                                   | 1,046 |
| Apricots.....        | 3,197                         | 3,760  | 3,394      | 3,895  | 197                                     | 135   |
| Mixed fruits.....    | 4,900                         | 3,150  | 5,336      | 3,957  | 436                                     | 870   |
| Peaches.....         | 12,905                        | 9,763  | 13,581     | 10,479 | 676                                     | 716   |
| Pears.....           | 3,908                         | 3,184  | 4,077      | 3,738  | 169                                     | 625   |
| Pineapple.....       | 2,252                         | 3,006  | 2,716      | 3,916  | 916                                     | 1,208 |
| Tomato juice.....    | 17,388                        | 19,332 | 18,889     | 19,906 | 1,524                                   | 636   |
| Pineapple juice..... | 1,549                         | 1,981  | 1,725      | 2,549  | 527                                     | 798   |
| Total.....           | 91,759                        | 87,036 | 98,795     | 93,824 | 7,839                                   | 7,512 |

\* Packer information supplied by N. C. A.

### Annual Index Mailed

The 1947 annual index of the INFORMATION LETTER covering all issues from January 4 (No. 1118) to and including December 20 (No. 1166) has been mailed to all members. The annual index consolidates the references included in the quarterly and semiannual indices issued earlier in 1947. The next INFORMATION LETTER index will appear the first week in July.

## Publicity

### Association Review Published

The December issue (Annual Review Number) of *Southern Canner & Packer* devotes two pages to a review of the activities of the National Canners Association during the year 1947. Starting with actions of the 1947 Convention, brief details are given of the work of the various Association departments. Reference is made to the showing of the canning industry on the retail price markets achieved through the forces of production and competition, and their resultant stabilization of canned foods prices, as well as to the publicity given to this situation by Association press and radio releases.

### Canned Food Quality Praised

In a full page of the January 11 issue of the *Cleveland Plain Dealer Pictorial Magazine*, Helen Robertson, food editor, stressed quality control of canned foods and featured canned fruits. The quality of canned foods is emphasized through the use of photographs showing an inviting dessert fruit platter, a sorting and inspection view of canned peaches, one of the National Canners Association laboratories, and two views of the mobile field laboratory, and by concise sharply focused descriptions.

### Canned Food Prices on Radio

The retail price situation on canned foods was made the subject of one of the recent broadcasts of the "3-Star Extra" program, which goes out over 36 N.B.C. stations. In the section of the program regularly handled by Ned Brooks, news commentator, reference was made to the Association's survey of 14 markets which

showed that in most areas the retail prices of canned foods had not risen above, and in some cases were below the October 1, 1946, level when price ceilings were still being reflected. Mr. Brooks told his radio audience that "The Government and the food industry tell the same story. The prices of meat and dairy products going up—but you'll get a break if you eat out of a can."

### CANNED VEGETABLES FEATURED

(Concluded from page 111)

are good buys. With few exceptions they are relatively lower in price than a year ago" and "All canned foods are wholesome, and all cans of the same food have approximately equal nutritive value because each meets the same standards of quality set by the Food and Drug Administration."

Starting with two pages of color photos, the feature presents the dif-

ferent styles of packs of vegetables along with illustrations of interesting and appealing dishes prepared from them. Discussion of canned foods continues on three additional text pages with general information and recipes for using canned foods on a final page.

Throughout the article practical assistance is given to buyers and users of canned foods. This includes the publication of a table of popular can sizes and contents, and information regarding label terminology.

It is not unusual for food editors to advise the reading of labels and otherwise give counsel on better methods of buying canned foods, but this article is more practical than most in that it points out the actual terms to look for on canned vegetable labels, including the label statements recommended by the N.C.A. Labeling Committee and approved by the Distributors' Advisory Committee.

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